

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-133-C

In Re:)
Application of EnTelegent Solutions, Inc.)
for a Certificate of Public Convenience)
and Necessity to Provide Facilities-Based)
Local Exchange and Resold Long Distance)	SETTLEMENT AGREEMENT
Telecommunications Services and for)
Flexible Regulation of its Local Exchange)	
Services and Alternative Regulation of its)	
Long Distance Offerings)

This Settlement Agreement (“Settlement Agreement”) is made by and among the Office of Regulatory Staff (“ORS”) and EnTelegent Solutions, Inc. (“EnTelegent” or “the Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”);

WHEREAS, on March 24, 2009, EnTelegent filed its Application requesting: (i) a Certificate of Public Convenience and Necessity be granted authorizing the Company to provide facilities-based local exchange and resold interexchange telecommunications services throughout the State of South Carolina; (ii) alternative regulation of its interexchange business services, consumer card services, operator services, and private line service offerings consistent with Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C; (iii) flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iv) waiver of certain regulations of the Public Service Commission of South Carolina (“Commission”), specifically Regulation 103-610 regarding location of records, and Regulation 103-631 concerning

publishing and distributing local exchange directories; and (v) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts (“USOA”);;

WHEREAS, on March 25, 2009, counsel for ORS entered a Notice of Appearance in this matter;

WHEREAS on March 30, 2009, the Commission issued a Notice of Filing and Hearing and established a return date of April 30, 2009, for the filing of letters of protest or petitions to intervene and established a hearing date of June 29, 2009 for the application to be heard before a hearing examiner;

WHEREAS, on April 1, 2009, the Commission issued its Order No. 2009-226 by which the Commission appointed Randall Dong, Esquire as the Hearing Examiner in this matter;

WHEREAS, on May 18, 2009, the Company filed the direct testimony of David Gibson with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by the Company and its requests: (i) for a Certificate of Public Convenience and Necessity to provide facilities-based local exchange and resold interexchange telecommunications services within the State of South Carolina; (ii) for alternative regulation of its interexchange business services, consumer card services, operator services, and private line service offerings consistent with Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C; (iii) for flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iv) for waiver of certain of the Commission Regulations, specifically Regulation 103-610 regarding location of records, and Regulation 103-631 concerning publishing and distributing local exchange directories, and (v) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, ORS has reviewed the pre-filed testimony of David Gibson;

WHEREAS, as a result of its investigations, ORS has determined: (a) the Company intends to offer facilities-based local and resold long-distance telecommunications services such as residential and business local exchange services, switched outbound ("1 +" dialing), toll-free service, directory assistance services, and operator services; (b) the Company's officers possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) based upon the information provided and the analysis performed, the Company appears to have access to sufficient financial resources necessary to provide the services proposed in its application; (d) the Company's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (e) the services provided by the Company will meet the service standards required by the Commission; (f) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; (g) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable

rates; and (h) the provision of interexchange services by the Company will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree that EnTelegent's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;

2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness David Gibson without cross-examination by ORS;

3) The Company submitted financial data, which as provided as Exhibit C and as Supplemental Exhibit C to its Application and which was granted protective treatment by Commission Hearing Examiner Directive dated May 22, 2009, and which financial data is incorporated by reference;

4) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide facilities-based local exchange and resold interexchange telecommunications services within the state of South Carolina;

5) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2008) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory

Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in the State of North Carolina, and the Company agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2008) or § 58-9-1070 (Supp. 2008). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

6) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regs. 103-631 which requires the publication and distribution of directories, and Entelegent agrees to make arrangements with publishers of local directories in South Carolina to include the names and telephone numbers of Entelegent's subscribers and customers in local directories, unless a subscriber indicates his/her desire for an unpublished telephone number.

7) The Company has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA"). The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2008) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require

every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records in such a manner that permits ORS to audit its revenues and expenses for compliance with programs such as but not limited to the Universal Service Fund ("USF"), the Interim LEC Fund, dual party relay service fund, and gross receipts. The Company agrees to complete the reporting forms for such programs as but not limited to USF, dual party relay service fund, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

8) ORS does not oppose the Company's requests: (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days and (b) for alternative regulation of its interexchange business services, consumer card services, operator services, and private line service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) regulation of these services listed above in the same manner as these services are regulated of AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for Entelegent's business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (iii)

presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) grant EnTelegent the same treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements;

9) The Company agrees to resell the services only of those local exchange providers or interexchange carriers authorized to do business in South Carolina by the Commission. The Company agrees to notify ORS and the Commission, in writing, of its underlying interexchange carriers and if EnTelegent changes its underlying interexchange carriers;

10) The Company agrees that it will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

11) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as Entelegrnt. The Parties agree that such reports shall be filed pursuant to ORS's instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission requirements.

12) The Company agrees to maintain its books and records in a manner that would permit ORS to examine any of EnTelegent's reports filed with the Commission and provided to ORS.

13) The Company agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order.

14) In the event the Company offers prepaid calling card services in the future, EnTelegent agrees that it shall post a surety bond in the amount of \$5,000 as required by the Commission;

15) In the event that the Company offers local and long distance services to end users, EnTelegent agrees to comply with the verification regulations governing change of preferred carriers as established by Federal Communications Commission ("FCC"). In addition, in the event that EnTelegent offers local and long distance services to end users, the Company agrees to comply with the marketing practices and guidelines established by the Commission in Order No. 95-658;

16) The Company agrees to comply with South Carolina Code Ann. § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, EnTelegent agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

17) To the extent necessary, the Company agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

18) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," also known as 911 services." At the time the Company offers or provides any service that would implicate Title 23, Chapter 47, the Company agrees to contact

the appropriate authorities regarding 911 services in the counties and cities where it will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator in each county and/or city with information regarding the Company's operations. Attached as Exhibit 1 to this Settlement Agreement is a memorandum from the State 911 Office which provides contact information for the County 911 Coordinators;

19) The Company agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

20) The Company agrees to file a final revised tariff with both the ORS and the Commission and the revised tariff shall reflect and be in accordance with ORS's recommendations as set forth in the summary attached as Exhibit 2 to this Settlement Agreement.

21) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

22) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the

above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

23) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party;

24) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

25) This Settlement Agreement shall be interpreted according to South Carolina law.

26) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be

signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

Representing the Office of Regulatory Staff

Shealy Boland Reibold

Shealy Boland Reibold, Esquire

Office of Regulatory Staff

1401 Main Street, Suite 900

Columbia, SC 29201

Telephone: (803) 737-0863

Fax: (803) 737-0895

Email: sreibol@regstaff.sc.gov

6/2/09

Date

WE AGREE:

Representing Entelegent Solutions, Inc.

Bonnie D. Shealy

Bonnie D. Shealy, Esquire

Robinson, McFadden & Moore, P.C.

1901 Main Street, Suite 1200

Post Office Box 944

Columbia, SC 29202

Telephone: (803) 779-8900

Fax: (803) 252-0724

bshealy@robinsonlaw.com

June 2, 2009

Date

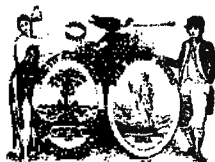
STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF RESEARCH & STATISTICS

EXHIBIT 1

MARK SANFORD, CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HARRELL, JR.
CHAIRMAN, WAYS AND MEANS COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

REMBERT C. DENNIS BUILDING
1000 ASSEMBLY STREET, SUITE 425
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

ECONOMIC RESEARCH
WILLIAM GILLESPIE
(803) 734-3805

GEODETIC SURVEY
5 GEOLOGY ROAD
COLUMBIA, S.C. 29210
LEWIS LAPINE
(803) 896-7700

DIGITAL CARTOGRAPHY
(803) 734-3802

HEALTH & DEMOGRAPHICS
STATISTICS
1919 BLANDING STREET
COLUMBIA, S.C. 29201
WALTER P. BAILEY, M.P.H.
(803) 898-9941

Recommendations for Entelegent Solutions Interexchange Tariff No. 1

Original Title Page: The Company should include the Company's phone number/email address on the title page.

Section 1-Terms and Abbreviations

--There are no recommendations for Section 1.

Section 2-Rules and Regulations

Original Page 14: The Company should update the ORS Address as follows (phone numbers remain the same):

Office of Regulatory Staff
Consumer Services Division
1401 Main Street, Suite 900
Columbia, SC 29201

Original Page 16 2.6.A.2: The Company should include the following language at the end of the paragraph—"Any adjustment to a customer's deposit will conform to S.C. Code Regs. 103-621."

Section 3-Service Description and Rates

--There are no recommendations for Section 3.

Section 4-Promotions

--There are no recommendations for Section 4.

Section 5-Current Rates

Original Page 32 5.2.1: The Company should include a maximum rate for Direct Dial Service if the service may be provided to residential customers.

Recommendations for Entelegent's Local Exchange Tariff No. 2

Original Title Page: The Company should include the Company's phone number/email address on the title page.

Section 1-Definitions

--There are no recommendations for Section 1.

Section 2-Regulations

Original Page 20 2.5.1: The Company should include the following language at the end of the second paragraph—"All such charges will appear as separate line items on the customer's bill."

Original Page 23 2.5.3.B: The Company should update the ORS Address as follows (phone numbers remain the same):

Office of Regulatory Staff
Consumer Services Division
1401 Main Street, Suite 900
Columbia, SC 29201

Original Page 25 2.5.5.D: The Company should modify the second sentence in the paragraph as follows—"The interest accrued will be the annual percentage as prescribed by the Commission."

Original Page 29 2.6: The Company should modify the first sentence as follows—"Service continues to be provided until canceled by the Customer, orally or in writing, or until discontinued by the Company as set forth below." (S.C. Code Regs. 103-624.3)

Original Page 33 2.7.4.C and Original Page 34 2.7.4.D: Section C states that Credit Allowance will be given for interruptions of 30 minutes or more. Section D states that Credit allowance will not be allowed for interruptions of 2 hours or less. The Company should reconcile the differences in time or provide a clear explanation.

Section 3-Service Areas

--There are no recommendations for Section 3

Section 4-Service Charges and Surcharges

--There are no recommendations for Section 4.

Section 5-Local Exchange Service

--There are no recommendations for Section 5.

Section 6-Supplemental Services

--There are no recommendations for Section 6.

Section 7-Contract Services

Original Page 1 7.1: The Company should add the following language to the end of the paragraph—"All Special Contract Arrangements will be made available to the Commission and ORS upon request."

Section 8-Special Arrangements

Original Page 1 9.1: The Company should add the following language to the end of the first paragraph—"All ICB's will be made available to the Commission and ORS upon request."

Section 9—Promotional Offerings

--There are no recommendations for Section 9.

Section 10-Current Rates

--There are no recommendations for Section 10.

Recommendations for Entelegent's Access Services Tariff No. 3

Original Title Page: The Company should include the Company's phone number/email address on the title page.

Section 1-Definitions

--There are no recommendations for Section 1.

Section 2-Rules and Regulations

Original Page 29: The Company should update the ORS Address as follows (phone numbers remain the same):

Office of Regulatory Staff
Consumer Services Division
1401 Main Street, Suite 900
Columbia, SC 29201

Original Page 33 2.13.1.A: The Company should modify the first sentence as follows—"Customers of the Company's service may cancel service by providing the Company with

written or oral notification thirty days prior to the requested cancellation date.” (S.C. Code Regs. 103-624.3)

Original Page 37 2.15.2: The Company will need to include a maximum as well as current rate for the Restoration Fee.

Section 3-Switched Access Service

Original Page 65 3.9.3.A: The Company will need to include a maximum as well as a current rate for the Originating and Terminating rates.

Section 4-Special Contracts, Arrangements, and Construction

Original Page 67 4.1: The Company should add the following language to the end of the first paragraph—“All ICB’s will be made available to the Commission and ORS upon request.”

Additional Recommendations

- 1) If the Company charges any installation, connection, maintenance, or termination charges, etc. (in addition to the services listed in the tariff), these additional charges and the descriptions of the charges should be listed in the tariff with their current and maximum rates.
- 2) The Company should also provide tariffs and tariff revisions to the South Carolina Public Service Commission as well as the South Carolina Office of Regulatory Staff (S.C. Code Regs. 103-629).
- 3) If the Company’s Services involve Prepaid Calling Cards, the Company will be required to post a \$5, 000 Surety Bond with the Public Service Commission.
- 4) The Company is applying for Modified Alternate Regulation by the PSC for its Interexchange tariff. As a general rule, the Company should include maximum rates and current rates for any service that may impact residential Customers. Any service that impacts Business Long Distance, Consumer Cards, and Operator Services (Including Directory Assistance) are exempt from maximum rates. Only current rates would need to be filed for these services.
- 5) The Company is applying for Flexible Regulation. Therefore, the Company will include maximum rates as well as current rates for all services within the Local Exchange Tariff and Access Exchange Tariff that are not exclusively ICB.


BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2009-133-C

IN RE:	Application of EnTelegent Solutions,)	
	Incorporated for a Certificate of Public)	
	Convenience and Necessity to Provide Facilities)	CERTIFICATE OF
	Based Local Exchange and Resold Long Distance)	SERVICE
	Telecommunications Services and for Flexible)	
	Regulation of Its Local Exchange Services and)	
	Alternative Regulation of Its Long Distance)	
	Service Offerings)	

This is to certify that I, Pamela J. McMullan, have this date served one (1) copy of the **SETTLEMENT AGREEMENT** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Bonnie D. Shealy, Esquire
Robinson, McFadden & Moore, P.C.
Post Office Box 944
Columbia, SC, 29202

M. John Bowen, Jr., Esquire
Margaret M. Fox, Esquire
Sue-Ann Gerald Shannon, Esquire
McNair Law Firm, PA
Post Office Box 11390
Columbia, SC 29211



Pamela J. McMullan

June 3, 2009
Columbia, South Carolina